

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

TIMOTHY DEAN PETERSON,

Defendant.

07-CR-149-A

**STATEMENT OF DEFENDANT
WITH RESPECT TO
SENTENCING FACTORS**

MARIANNE MARIANO, affirms under penalty of perjury that:

1. I am an Assistant Federal Defender in the Western District of New York and represent the defendant, Timothy Dean Peterson, in the above-entitled action brought by the United States of America.

2. I make this affirmation in accordance with the requirements of Section 6A1.2 of the Sentencing Guidelines, "Statement of Defendant with Respect to Sentencing Factors," as promulgated by the United States Sentencing Commission.

3. In accordance with those rules, it is hereby stated on behalf of the defendant that I have reviewed the presentence report and have discussed the same with Mr. Peterson. There are no statements, conclusions or other information contained in that report which the defendant disputes. Defendant accepts the presentence report in its full prepared form.

4. The defendant requests that the Court advise him about all information which it will consider in imposing sentence which negatively impacts on the defendant and about which the defendant has no prior notice from the presentence report, including, but not limited to, *ex parte* communications with United States Probation Officers and victims. *United States v. Mueller*, 168 F.3d 186 (5th Cir. 1999); *United States v. Corace*, 146 F.3d 51 (2d Cir. 1998); *United States v. Rivera*, 96 F.3d 41 (2d Cir. 1996).

DATED: Buffalo, New York, September 13, 2007

Respectfully submitted,

/s/Marianne Mariano
Marianne Mariano
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TO: James P. Kennedy, Jr.
Assistant United States Attorney

Kathleen A. Horvatits
United States Probation Officer

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CERTIFICATE OF SERVICE

I hereby certify that on **September 13, 2007**, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

1. Timothy Dean Peterson
Assistant United States Attorney
Western District of New York
138 Delaware Avenue, Federal Centre
Buffalo, New York 14202

And, I hereby certify that I have e-mailed the document to the following non-CM/ECF participant(s).

1. Kathleen A. Horvatits
United States Probation Officer
404 United States Courthouse
68 Court Street
Buffalo, New York 14202

s/Carol A. Steinbruckner
Carol A. Steinbruckner
Federal Public Defender's Office